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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/045,247   | 11/07/2001  | Cheryl Carlson       | PG16044P0690US      | 2324             |
| 32116  | 7590        | 03/31/2005           | EXAMINER            |                  |
| WOOD, PHILLIPS, KATZ, CLARK & MORTIMER<br>500 W. MADISON STREET<br>SUITE 3800<br>CHICAGO, IL 60661 |             |                      | COLE, ELIZABETH M   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1771                |                  |

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/045,247             | CARLSON ET AL.      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Elizabeth M. Cole      | 1771                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 1/10/05.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4,6,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,6,8 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

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1. Claims 1, 4,6,8-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not state that "increasing the level of hydroentangling during said hydroentangling steps acts to diminish the slippage between fibers of the fabric during said laundering step".
2. Claims 1,4,6,8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to the new limitation recitation "wherein increasing the level of hydroentangling during said hydroentangling steps acts to diminish the slippage between fibers of the fabric during said laundering step", it is not clear what is meant by "increasing". "Increasing" relative to what? Also, it is not fully clear whether this is an actual step, i.e., increasing the level of hydroentangling, or if it is a statement of a property, (i.e., that a more entangled fabric would have less slippage), but is not actually reciting an additional method step.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1,4,6,8-9 are rejected under 35 U.S.C. 103(a) as obvious over Evans, U.S. Patent No. 3,485,706 for the reasons set forth in paragraph 2 of the previous action. With regard to the new limitation that "increasing the level of hydroentangling during said hydroentangling steps acts to diminish the slippage between fibers of the

fabric during said laundering step", as set forth above, this limitation is not clear. For purposes of this art rejection, it will be assumed that the limitation refers to a property of the fabric. It is the examiner's position that the degree to which the fibers are entangled during the hydroentangling step would be related to the integrity and strength of the fabric and therefore the hydroentangling step of Evans would diminish the slippage between fibers during laundering.

5. Applicant's arguments filed 1/10/05 have been fully considered but they are not persuasive.

6. The fabric sample delivered to the examiner has been considered.

7. Applicant argues that there is no teaching of varying the level of hydroentanglement to thereby vary the resultant wrinkled appearance. However, the instant claims do not recite varying the level of hydroentanglement to vary the resultant wrinkled appearance. Further, Evans teaches that a ridges or other patterns can be formed on the fabric by hydroentangling, (col. 9, lines 13-70), so Evans does teach controlling the pattern and texture of the fabric through hydroentangling.

8. Applicant argues that Evans does not teach forming a fabric having a wrinkled or distressed appearance. However, Evans does teach forming a pattern of ridges and further teaches that the pattern can be either uniform or non-uniform. Therefore, it is the examiner's position that either Evans disclosed a fabric having a distressed or wrinkled appearance or else, it would have been obvious to have made the fabric have a wrinkled or distressed appearance through the selection of the particular apertured

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forming member which would produce the desired pattern and appearance on the fabric.

9. Applicant argues that Evans launders the completed fabric. However, Evans discloses the same steps in the same order as the instant invention. Therefore, it would appear that Applicant also launders the completed fabric, if the completed fabric refers to the hydroentangled fabric.

10. Applicant argues that Evans does not teach forming the fabric into a roll. However, Evans teaches forming the fabric into a roll after it is formed. Further, it is known in the art to form fabrics into rolls after they are finished for storage, shipment, etc. Therefore, it would have been obvious to one of ordinary skill in the art to have formed the Evans fabric into a roll after it was formed.

11. Applicant argues that there is no motivation for performing the laundering step to impart a distressed appearance to the fabric. However, the Evans reference teaches a laundering step. It is not required that the Evans reference teaches the laundering step for the same purpose as in the instant invention.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 4,188,690 to Suzuki et al teaches forming a fabric, hydroentangling a fabric, and then subjecting the fabric to a hot water treatment to shrink fibers in the fabric.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

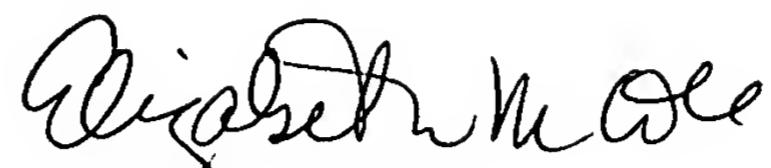
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c